

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Luis C. Verdecias

Plaintiff,

Case No. 20-cv-01776-NJ

v.

BSI Financial Services

Defendant.

MOTION FOR SANCTIONS

The above referenced Plaintiff, by Attorney Rollie R. Hanson, moves the Court to impose sanctions against the Defendant, BSI Financial Services, Inc., for their failure and refusal to follow the Court's order as directed in the August 3, 2023, hearing on Plaintiff's Second Motion to Compel Discovery, which required the Defendant to respond to the discovery requests in Plaintiff's First Set of Interrogatories and Requests for Production of Documents, pursuant to Fed. Rule Civ. Proc. 37(a)(3)(B)(iii)-(iv) and Civ. L.R. 37, or to submit a sworn declaration confirming the missing payment records on or before September 1, 2023.

In support of this Motion, the Plaintiff respectfully shows the Court as follows:

1. The Plaintiff originally served the First Set of Interrogatories and Request for Production of Documents on July 23, 2021 by mailing the documents First Class mail to the Defendant.
2. The Defendant, through managing paralegal, Calista Magelky, requested a 30-day extension for discovery responses on or about August 23, 2021. The Plaintiff agreed to the request.
3. Thereafter, the Defendant failed and refused to provide discovery responses and the

Plaintiff filed a Motion to Compel on November 1, 2021. After the filing of the Motion, the Defendant agreed to provide responses including the production of the payment history on the loan. However, the Defendant failed and refused to provide a complete Life of Loan Payment History and also raised objections that had no merit. Thereafter, the parties agreed to mediation but failed to reach a settlement agreement. The Court entered an Amended Scheduling Order (Document #50) on March 31, 2023.

4. The Defendant has failed and refused to provide proper responses to the Plaintiff's discovery requests including, but not limited to, a complete Life of Loan Payment History. The Defendant has failed to provide data for the loan history from September 22, 2016 to December 27, 2017, which is over a year of payment history. The Plaintiff's expert needs these records to complete his forensic audit of the account and the Expert Report. Further, the Plaintiff asserts that the Defendant has been aware of the missing records for over two years and it appears they have no intention of honoring the Plaintiff's discovery requests.
5. In addition, the Defendant raised numerous objections that lack merit and has failed and refused to provide appropriate responses to Interrogatories as well as Requests to Produce Documents. Specifically, the Defendant has failed to provide responses to Interrogatories Nos. 6, 7, 8, 12, 13 and 14. The Defendant has failed to provide proper responses to Requests to Produce Nos. 2, 3, 4.f, 7, 9 and 17. (Submitted as Exhibit B in Plaintiff's Second Motion to Compel Discovery.) The Plaintiff previously submitted the First Set of Interrogatories and Requests for Production of Documents with his first Motion to Compel as Exhibit A.
6. Counsel for the Plaintiff had a Meet and Confer on May 18, 2023 at 1:00 p.m. with counsel for the Defendant, Attorneys Sammy Hooda and Sara Schmeling. Thereafter, Counsel sent

correspondence to confirm the discussions of the Meet and Confer conference to counsel for the Defendant. (Submitted as Exhibit C in Plaintiff's Second Motion to Compel Discovery.) At this time, the Plaintiff has received no communication from the Defendant regarding discovery responses since the Meet and Confer conference.

7. The Court held a hearing on the Plaintiff's Second Motion to Compel Discovery on August 3, 2023. The Defendant advised the Court that BSI did not provide responses to Interrogatories and did not produce documents because they simply did not want to provide responses or produce records. The Court noted this was not an appropriate reason for the refusal and failure to provide responses, produce documents, or provide records.
8. The Court ordered the Plaintiff to produce appropriate discovery responses, including the entire life of loan payment history, or to submit a sworn declaration confirming the missing payment records on or before September 1, 2023. The Court also gave the Plaintiff a warning to follow the order of the Court or face the possibility of sanctions.
9. The Plaintiff has failed and refused to produce the missing records and has failed and refused to submit a sworn declaration that BSI does not have the records. The Defendant continues to stall and now intentionally flouts the Order of the Court. Further, the Defendant's actions impinge the Plaintiff's efforts to obtain proper discovery and obstruct his ability to prepare for trial.
10. The Plaintiff also advised the Court that the Defendant had failed to produce a complete life of loan payment history and that there was a year of payment history missing from September 22, 2016, through December 28, 2017. Counsel for the Defendant advised the Court that BSI had failed to produce the entire payment history because they did not have the records.

11. As the Defendant has failed to follow the order of the Court to produce appropriate responses, documents, and records, or to submit a sworn declaration confirming the missing payment records on or before September 1, 2023, the Plaintiff therefore requests attorney fees incurred for this motion as well as the first and second Motions to Compel and to impose appropriate sanctions.

Dated this 8th day of September 2023 at Milwaukee, Wisconsin.

Rollie R. Hanson

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State Bar No. 1011293

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